

Victim Witness Assistance Program

Helping Victims and Witnesses of Crime

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VICTIM & WITNESS HANDBOOK

Preamble

The Victim and Witness Protection Act of 1982 protects and helps crime victims and witnesses. The military justice system cannot function without victim and witness cooperation. We will ensure that victims and witnesses receive due consideration, are extended authorized assistance, are treated with dignity and courtesy, and are subjected to minimum interference with personal privacy and property rights. Subject to available resources, operational commitments and military exigencies, Air Force personnel in the military justice process will work to ease the physical, psychological and financial hardships suffered by victims of crimes investigated by the Air Force.

Thank you for your cooperation, service and participation in the criminal justice system. Your sacrifice is essential to the fair administration of justice and is greatly appreciated by the Commander of the 96 Test Wing. If you have any questions, please call the Victim/Witness Coordinator at Eglin Legal Office at 882-8038.

Overview

One of the responsibilities of citizenship in the United States is to serve as a witness at a criminal trial or hearing if you have knowledge about the commission of a crime. In the military justice system, trials to determine if an accused committed a crime are called courts-martial. The military justice system cannot function effectively without the participation of victims and witnesses. The cooperation and truthful testimony of witnesses are essential to the proper determination of guilt or innocence of an accused in a criminal trial. Utmost care must be taken to ensure that crime victims and witnesses are treated with dignity, courtesy and respect. People involved with the military justice system at Eglin AFB will ensure that crime victims and witnesses receive due consideration, are extended authorized assistance, are treated with dignity and courtesy and are subjected to minimum interference with personal privacy and property rights. Subject to available resources and operational commitments, Air Force personnel will work to mitigate the physical, psychological, emotional and financial hardships suffered by victims and witnesses of crimes investigated by the Air Force.

The Eglin Legal Office is concerned about the problems often experienced by victims and witnesses of crimes. As a victim or witness, you may experience pain, suffering, anger, confusion, frustration or fear as a result of your experience. This publication includes a description of your rights under federal law, as well as information on the services and programs

available to you as a victim or witness. It includes detailed information about the protection and assistance provided to crime victims and witnesses, information about the availability of emergency medical care and human service programs and information about the military justice process and various roles within that system.

If commanders, law enforcement personnel, OSI agents or supervisors believe that a military member, dependent or Air Force employee has been a victim of or a witness to a crime, they should refer the individual to the Eglin AFB Legal Office, 96 TW/JA, Building 2, 501 West Van Matre, 882-8038. The Legal Office will interview the person and go over this packet with them. The Legal Office will continue contact with the individual throughout the process.

DEFINITIONS

Victim—

A person who suffers direct physical, emotional, or financial harm as the result of an offense, including all military members, their dependents and DoD civilian employees (and their dependents when stationed outside the Continental US). The Eglin Legal Office can also assist civilian victims in getting similar benefits from civilian agencies.

If the victim is under 18 years old, incompetent, incapacitated or deceased, the term "victim" covers family members and others in the following order of priority: spouse, legal guardian, parent, child, sibling, another family member or another person designated by a court.

Witness—

A person who has information or evidence of a crime and provides that information or evidence to an Air Force official. When the witness is a minor, the term includes an appropriate family member, as listed above. The term "witness" does not include an individual allegedly involved in a criminal offense as a conspirator, accomplice or the alleged perpetrator.

Offense—

A crime punishable under the Uniform Code of Military Justice (UCMJ) committed by a person subject to the UCMJ.

Responsible Official (RO)

The Air Force official responsible for coordinating, implementing and managing the Air Force VWAP. The Judge Advocate General of the Air Force (TJAG) is the Air Force LRO.

Local Responsible Official (LRO)

The individual responsible for identifying victims and witnesses of crimes and providing the services required by the VWAP. Each installation commander is the LRO and this responsibility may be delegated to the SJA. This delegation must be in writing and specifically identify the SJA. The LRO at Eglin AFB is Colonel Eric F. Mejia.

Victim Liaison

An individual appointed by the LRO or his designee to assist a victim during the military justice process. The liaison may be a medical or mental health care provider, judge advocate, paralegal or other appropriate person. A liaison is responsible for making contact between victims and service agencies and arranging for those services when appropriate.

THE COURT-MARTIAL PROCESS

Introduction

You are encouraged to understand what is happening in the case you are participating in. There are many steps to a court-martial and you may be contacted by the judge advocate assigned to the case or the accused's lawyer during any of the various stages. If you have any questions relating to the court-martial process, please contact the judge advocate assigned to your case. This handbook is designed to assist victims and witnesses in trials prosecuted by the Eglin Legal Office. The Eglin Legal Office prosecutes or assists in prosecuting the following individuals:

1. Military members who have committed offenses punishable under the UCMJ when the Air Force has jurisdiction over the case, and
2. Civilians who commit federal offenses on the installation.

Not all cases go to trial. Some are dealt with "out of court". Others involve accused who plead guilty and are sentenced for their crime. A smaller number are actually "litigated", that is, go to trial. Below is an abbreviated description of the basic procedures involved.

Non-Court Alternatives

Administrative discharge or resignation

An enlisted accused can ask to be administratively discharged instead of being court-martialed (called a "Chapter 4"). An officer accused can ask to be allowed to resign in lieu of court-martial (called a "RILO"). Such requests are approved only when appropriate. When they are approved,

they usually result in an "Under Other Than Honorable Conditions Discharge". This is the worst type of administrative discharge available. The Eglin Legal Office is not allowed to tell victims what specific adverse administrative action an accused received. We can only explain what options the commander had and whether or not he took administrative action.

Article 15 punishment

When there has been a violation of a particular article of the UCMJ, the accused's commander discusses the offense and surrounding circumstances with a judge advocate in the Eglin Legal Office. Minor offenses are often not serious enough to warrant a court-martial. However, this type of offense may warrant non-judicial punishment under Article 15 of the UCMJ. This is a disciplinary procedure, which gives commanders a prompt means to maintain good order and discipline and to promote positive behavior changes in service members. Depending on the circumstances, an Article 15 proceeding between the accused and his commander does not always involve imposition of punishment. A judge advocate reviews such decisions made by commanders.

Deciding to accept an Article 15 proceeding is not an admission of guilt. It simply means that the accused has decided to let the commander determine the facts and the appropriate punishment instead of going to a court-martial. If the accused does not wish to resolve the matter by an Article 15 proceeding, he can refuse the Article 15 and demand a determination of guilt or innocence in a trial by court-martial. He can also appeal the punishment given by the commander.

The Eglin Legal Office is not allowed to tell victims what specific punishment an accused received under Article 15. We can only explain what options the commander had and whether or not he took administrative action.

Types of Courts-Martial

There are two different types of courts-martial: special courts-martial (SPCM) and general courts-martial (GCM). The difference between a special court-martial and a general court-martial is the punishment that each court is authorized to impose. In a special court-martial, the maximum punishment possible is a bad conduct discharge, one-year confinement (jail), forfeiture of two-thirds pay per month for one year and reduction in rank to the lowest enlisted grade (airman basic). A general court martial can give any sentence authorized by law, including death. The filing and charging procedures vary depending on what type of court-martial will be conducted (see below).

Preferral—Accusing a Military Member of a Crime

When the offense is too serious for disposition by an Article 15 proceeding or when the accused demands a trial by court-martial, the accused's commander can charge him with a violation of one or more of the punitive articles of the UCMJ that prohibit criminal activity. The accused's commander then forwards the charges and related information to the special court-martial convening authority (SPCM CA). At Eglin AFB, the SPCM CA is the 96 Test Wing Commander. After discussing the offense and surrounding circumstances with the Base Staff Judge Advocate, the SPCM CA has several options. He can send the charges back to the accused's commander with instructions to either drop the charges or initiate Article 15 proceedings. He can order a special court-martial. The commander can instead order an Article 32 investigation, which will determine whether a general court-martial is appropriate.

Article 32 Investigation—Hearing Required Before GCM

An Article 32 investigation has three formal purposes: to inquire into the truth of the charges, to consider the form of the charges and to recommend a disposition that is in the interest of justice and discipline. It is similar to a grand jury or preliminary hearing in the civilian world. This impartial investigation of the charges must be done before the case can be referred to a general court-martial since that is the most serious type of court-martial. The investigating officer's recommendations are sent to the SPCM CA who then forwards the report with his own recommendations to the general court-martial convening authority (the Commander of AFTC).

The Article 32 investigating officer will examine the charge sheet and case file and call witnesses for sworn testimony. The accused and his lawyer have a right to be present, the right to cross-examine government witnesses and to call witnesses for the defense. The accused has the right to testify at this hearing but is not required to do so. The hearing will be closed and no one except the accused, the attorneys and legal office staff may be present. An Article 32 hearing is a good opportunity for witnesses to become familiar with court procedures and pressures before testifying in the actual court-martial.

Referral—Sending the Case to a Court-Martial

The convening authority decides if a case will be referred to a court-martial. The identity of the convening authority depends on what type of court is to be ordered. If it is to be a SPCM, the convening authority is the 96 Test Wing Commander. If it is to be a GCM, the convening authority is the Commander of the Air Force Test Center.

When charges are referred to a court-martial, the convening authority's decision is written on the charge sheet along with the number of the court-martial convening order. This order lists the names of the court members (jury). The convening authority decides who the court members will be based on what he knows about them as fair and mature Air Force members.

Once the charges have been referred to a court-martial by the convening authority, they are formally served on the accused. The trial can begin any time after three to five days of this service. If the case is complicated, the trial may be delayed in order to give the defense adequate time to prepare and arrange for witnesses.

Pretrial Confinement

If the accused is likely to flee from prosecution or engage in serious misconduct and if lesser forms of restraint are inadequate to prevent this from occurring, the accused's commander may place him in pretrial confinement (jail) to await trial by court-martial. The commander's decision must be reviewed by a neutral and detached magistrate who may need your testimony to determine whether the accused should be confined while awaiting trial.

Pleas of the Accused

At trial, the accused can plead not guilty, guilty of all the charged offense(s), guilty of some but not all of the charged offenses or guilty of some lesser offense(s). A guilty plea, if genuinely made, is the strongest form of proof known to the law. Pleading guilty results in a conviction for that offense. The accused can instead plead not guilty to some or all of the charges and rely on his right to require the government to prove his guilt beyond a reasonable doubt if it can. After the plea, if any issue of guilt remains on any charge, the members of the court (if the accused chose trial by jury) are questioned to insure their impartiality, sworn and instructed on their function as members of the court.

The Trial Process

The trial counsel (prosecutor) is a judge advocate from the Eglin Legal Office or from the Eastern Circuit. The accused is provided a military attorney free of charge (usually the Area Defense Counsel). Accused personnel may also have a civilian lawyer provided at their own expense. A military judge is assigned to preside over the trial, usually from the USAF Trial Judiciary Office. The accused decides whether to be tried by judge alone or by a court with members (jury). If the accused is enlisted, he/she has a right to demand enlisted members be placed on the court.

If the accused pleads not guilty, the trial and defense counsel make opening statements about what the evidence will show. The trial counsel then calls witnesses and brings in evidence to prove the accused's guilt. The defense counsel is given a chance to cross-examine these witnesses. The trial counsel can never call the accused as a witness.

Next, the defense gets a chance to call its own witnesses and put in evidence. However, because the government has the burden of proving the case, the defense doesn't have to present anything. The accused does not have to testify and if he chooses not to, his decision to remain silent cannot be used against him. If the accused does testify, he is under oath and anything he says can be used against him. The trial counsel can cross-examine him just like any other witness called by the defense.

After the defense finishes calling witnesses and introducing evidence, trial counsel can put on rebuttal witnesses or evidence. This evidence is introduced in order to counter what the defense witnesses said or the evidence introduced by the defense.

After both sides have finished calling their witnesses and introducing evidence, the lawyers for each side makes a closing argument. The trial counsel tries to convince the court that there is enough evidence to prove the accused's guilt beyond a reasonable doubt. The defense counsel then tries to show that the government has failed to prove the accused's guilt. The lawyers summarize the evidence before the court and tell how the law applies to the facts. Because the government has the burden of proof, the trial counsel argues twice, both before and after the defense counsel's argument. If there is a jury, the judge then instructs the court members on their responsibilities and advises them on the law to be applied.

The court members deliberate in private and decide by secret written ballot whether the accused is guilty or not guilty of the charges(s). The members do not have to be unanimous in order to find the accused guilty. Deliberation on findings by the judge or court members may take several minutes or several hours. If the accused is found not guilty of all of the charges, the court-martial is over. If the accused is found guilty of any offense, whether by guilty plea or by findings, the sentencing portion of the trial begins immediately. If the case was litigated, sentencing is done by the same entity that determined guilt. If it was a guilty plea, the accused can request to be sentenced by either the judge alone or by military members.

Sentencing Phase

Prosecution Evidence

In the civilian criminal justice system, the sentencing proceeding is held at a later date. However, in the military justice system, sentencing immediately follows the finding of guilt. The prosecution may put on evidence that makes the accused or the situation look worse. These are called matters in aggravation. In addition to evidence and testimony about the crime's adverse impact on the victim and the Air Force, the trial counsel will also present evidence of the accused's previous court convictions, Articles 15 or Letters of Reprimand. Performance reports may also be admitted into evidence, as are decorations, awards and other personal data.

Defense Evidence

After government matters are submitted to the court, the defense counsel will submit evidence in mitigation and extenuation. This is evidence which tends to show the accused doesn't deserve the maximum punishment authorized or that the circumstances don't justify a harsh punishment. Since the military rules of evidence are more relaxed than during trial, the defense usually presents whatever information they believe is needed for the court to decide on a fair punishment. This can include written statements or oral testimony from witnesses. The accused may testify under oath, make an unsworn statement, say nothing at all or have the defense counsel make a statement on his behalf. If the accused testifies under oath, trial counsel can cross-examine him.

Argument and Deliberation

After the defense puts on sentencing evidence in mitigation and extenuation, trial counsel can put in rebuttal evidence to counter this evidence. The lawyers then make closing arguments about what the sentence should be. If there is a jury, the judge instructs them on their responsibilities and the law, including the possible maximum punishment in the case. The court then closes to deliberate and decide the punishment to be imposed on the accused. In all courts-martial, imposing "no punishment" is a possible sentence.

Post-Trial Actions on the Sentence by the Convening Authority

The accused and the defense counsel may submit allegations of legal error and clemency matters to the convening authority. The convening authority must take specific action on the sentence and must order the sentence executed before it takes effect. For all cases except those involving death, dismissal (for officers) or punitive discharges (bad conduct or dishonorable for enlisted), the convening authority may order all parts of a sentence executed in his initial action on the case. The convening authority could instead decide to only approve part of a sentence, to disapprove all or part of a sentence or to mitigate, suspend or remit (cancel) all or part of the sentence. The convening authority may not increase the sentence. The victim has the right to

submit matters to the convening authority at this point and should contact the judge advocate as soon as possible if he/she wants to do this.

Confinement

If the sentence includes confinement, the accused is usually taken directly to jail. The accused can ask to have the confinement postponed or deferred to a later date but this is rarely approved and only for the most compelling reasons. Confinement usually begins at the local confinement facility. The permanent confinement facility will depend on the length of confinement and whether the accused is enlisted or an officer.

Appellate Review

If the sentence approved by the convening authority includes death, dismissal, a bad conduct discharge, a dishonorable discharge or confinement for one year or longer, the case will automatically be appealed to the Air Force Court of Military Review (AFCMR) if the accused does not waive his appellate rights. After review by AFCMR, the accused can file a petition for review with the Court of Military Appeals (COMA) requesting review of the case. If the case is reviewed by COMA and the accused is still not satisfied with the results, the accused can file a petition for review with the United States Supreme Court. If there is no automatic appeal per above, the accused can file an appeal or request review by The Judge Advocate General (TJAG) under Article 69 of the UCMJ. In the military review process, the accused will have free defense counsel if requested.

Questions?????

Any questions you may have about what happens before, during or after a court-martial in your case should be addressed to the trial counsel in the Eglin Legal Office, 882-8038.

PREPARING TO TESTIFY

Introduction

Being a witness is a very important job, not only for the side that calls you to testify but also for yourself and for the American system of justice. In order for a court, board or hearing officer to make a correct decision, all evidence must be related truthfully and accurately by witnesses. Lack of cooperation can easily result in injustice. There are also serious penalties associated with not cooperating with a criminal investigation or giving false testimony in a court-martial.

Our Commitment

All the people involved in the case know that your time is valuable and that you probably have other things that you would rather be doing. Every attempt will be made to obtain your testimony in as little time as possible. However, when a person's future is on the line, hasty actions are inappropriate. Therefore, there may be unavoidable delays in getting you on and off the witness stand, so please be patient.

Written Statements versus Live Testimony

Frequently, witnesses who have already given statements before the trial or hearing are called to testify. You may wonder why you should be inconvenienced by going to court when they could use your statement instead. You must testify in person because the law requires the witness to appear in court, tell his or her story under oath and be subject to questioning by all parties. The Sixth Amendment of the U.S. Constitution gives the accused the right to confront witnesses against him. Therefore, even though you may have already given a statement, you are still needed in court.

Why Are You A Witness?

Frequently, people called, as witnesses believe they don't know any relevant facts about the case and therefore shouldn't be called. However, you may know something very important even though it may seem insignificant to you. Remember that the lawyers investigate the case thoroughly and know what testimony is necessary and relevant. If your testimony is not important to the case, you will not be called.

Subpoenas

If you are a civilian witness and subpoenaed to a court-martial, don't ignore the subpoena. It is an order of the court and must be obeyed. Failure to appear in court as required by the subpoena

could place you in contempt of court and subject you to legal punishment. If you have any questions or problems about appearing in court, contact the lawyer who sent you the subpoena.

Helpful Hints for Preparing to Testify in Court

Cooperate with the lawyers

If you are contacted by the lawyer for either side for an interview before the trial, cooperate with him or her. Failure to cooperate prior to trial could cause you embarrassment at trial and can significantly extend your participation in the trial. However, you are not required to talk to defense attorneys until after the Article 32 hearing.

Go over the facts.

Prior to your visit in court, go over the facts of the case in your mind. Visit the scene of the crime. It may help to refresh your memory. Before you testify, try to picture the scene, the objects there, the distances and exactly what happened so that you can recall the facts more accurately in court.

Appearance.

Be neat in your personal appearance. You are being judged not only by what you say, but how you look. You will be sworn in before your testimony. When you take your oath, say, "I do" clearly. On the witness stand, get comfortable, sit straight and look around to familiarize yourself with the surroundings.

What to say.

When testifying, the first rule is to tell the *truth!* Don't answer questions with half-truths. Don't try to judge whether an answer is going to help or hurt one side or the other. Don't let your personal feelings of who should win or lose color your testimony. Avoid giving your opinion about the guilt or innocence of the people involved in the trial. That is the job of the court. As a witness, your only duty is to tell it like you saw it: nothing more, nothing less.

Speak to be heard.

Answer the questions clearly and loudly enough so that everyone in the courtroom can hear you. Don't talk too fast or too slowly. Don't mumble or slur your words. Look at the court panel and address your remarks to them so they will be able to hear and understand what you have to say. Do not nod your head for "yes" or "no" answers.

Be polite.

Use military courtesy if you are a military member. Use "ma'am," "sir," and "your honor." Be serious at all times. The courtroom is not the place to be cute or humorous.

Do not memorize.

It will sound rehearsed. Speak using your own words.

Listen carefully.

If you don't hear a question, ask for it to be repeated. If you don't understand a question, ask that it be rephrased so that you can understand what the question is.

Do not guess.

If you don't know the answer to a question, simply say that you don't know. A trial is not like a television quiz show where you must come up with some kind of an answer.

Answer directly.

Answer directly and simply. Answer only the question asked. Don't volunteer extra information. Do not exaggerate or make overbroad statements that you may have to correct. Give positive, definite answers when possible (yes or no). If a question cannot be truthfully answered with a "yes" or a "no," you have the right to explain the answer. Stick to the facts. Avoid stating your opinions or conclusions unless directly asked for them.

Correct mistakes.

If you make a mistake in answering a question, correct it immediately. If your answer was not clear, clarify it immediately.

Objections.

If an objection is made by one of the lawyers or if the judge speaks, stop talking immediately. Don't try to complete your answer until told to continue.

Demeanor.

Don't argue with the lawyer asking the questions. Restrain your temper and always be courteous.

Cross-examination.

While testifying on cross-examination, don't look at the lawyer who called you for help in answering the question. You are on your own. If the question is improper, the lawyer will object

and the judge will rule on it. It's important for you to listen to the objection so that you understand why it's being made.

Preparation.

If you are asked whether or not you have talked to anyone about your testimony before coming to court, be sure to answer, "yes" if you have. There is nothing wrong with discussing the facts with lawyers, parties, security police or investigators before the trial. If asked what you were told to say, answer "the truth."

Dates, distances, times, or speed.

If the question is about distances, time, or speed and your answer is only an estimate, be sure you say it is only an estimate. Beware of suggestions by lawyers as to estimates and do not agree with their estimates unless you independently arrive at the same estimate.

Be natural.

Be yourself. Don't try to be someone you are not. If you relax, tell the truth, and remember you are talking to other people, you'll get along fine.

After testifying.

Do not tell other witnesses what was said during testimony until after the case is over. Do not ask other witnesses about their testimony. Witnesses are not allowed to be in court until their testimony and they are not allowed to hear the testimony of witnesses who come before them.

Do not discuss the case or your testimony within the hearing of the court members (the jury). The only time the court members should hear from you is while you are testifying in the courtroom.

When Your Child is a Witness: Helping Him/Her on Trial Day

Being a witness in a trial is generally a new experience. Most people don't do it often, and many people get nervous as they wait and think about it. Similarly, parents of child witnesses often feel nervous for their children. After working with many parents and children in this situation, we've seen several things that people often find helpful.

Think about who is nervous about what. Feelings are contagious. For example, children are particularly sensitive, and can easily catch their parents' feelings.

Remember that children are often nervous about something completely different than what parents are nervous about. A parent may worry about whether or not a child can describe the incident clearly, or about an overly aggressive cross-examination. The child may be worried about what will happen if he or she has to go to the bathroom while she's on the stand. Or about what he will tell his friends when he goes back to school. Many children are not as worried as their parents about testifying, and that in looking back testifying was often a helpful learning experience.

Find ways to reassure your child that you both are “just fine”. This doesn't mean telling her “I'm not nervous” if you are, or that there is not reason to be nervous” if she is. But, we've seen at least four things that help.

- 1. Bring a friend to wait with you while your child is testifying,** preferably someone who is caring, but not overly emotional.
- 2. Let your child know, a few times, that you know “they will do just fine”.** They know what happened; and they know how to tell what's true. Then when they are through testifying, or being interviewed, focus on how they feel rather than what they said. If your child is worried that he did not do well on the stand, reassure him that it is sometimes difficult to judge our own performances, and ask what the prosecuting attorney said.
- 3. Provide your child with lots of affection,** perhaps in the form of hugs, well before court rather than just as they are going into court.
- 4. The night before, you and your child can relax with favorite meal and activity** (TV program, movie, reading). Keep the emphasis off of “getting a good sleep”, and just focus on relaxing.

Plan for the waiting. There is a good chance you and or your child will spend time waiting for court. You may already know about passing “wait time” with your child while away from your home.

Pack some snacks or a lunch. Bring healthy food such as fruit, milk, and sandwiches, and avoid the heavy sugars such as candy and cookies.

Pack a few favorite toys. Often child and teen aged witnesses like to hold one of their items while they are testifying.

Bring a book or other activity for yourself.

Questions

If you have any questions about testifying or problems related to the case, please contact the judge advocate assigned to the case through the Eglin Legal Office, 882-8038.

INFORMATION FOR CRIME VICTIMS

Protection From Harassment

It is a federal offense to threaten, intimidate, harass, mislead or retaliate against a victim involved in a criminal proceeding or investigation. When appropriate, steps will be taken to protect you from intimidation or other threats. If anyone does threaten you or if you feel that you are being harassed because of your contribution to a case, immediately notify the judge advocate in charge of the case or the Air Force agency investigating the offense. Here at Eglin AFB, the appropriate phone numbers are:

Base Legal Office	882-8038
Security Police Investigations	882-2502
Office of Special Investigations	882-2152

Consultation With Victim

If you are a victim or an immediate family member of a victim of a serious offense, the judge advocate in charge of the case will wish to obtain your views about legal decisions made before, during and after the trial. Any adverse impact on you and your family will be explored in detail. In this way, your situation and opinions can and will be given due consideration throughout the case. Please be frank, thorough and totally honest when discussing these matters with the judge advocate in charge of the case. Under ordinary circumstances, victims are consulted on the following matters: decisions regarding preferral of charges, dismissal of charges, pretrial restraint, pretrial agreement negotiations (including pretrial agreement terms), plea negotiations, decisions regarding discharge in lieu of court-martial and the scheduling of judicial proceedings where the victim is required or entitled to attend.

Consultations with victims may be limited when justified by the circumstances, such as to avoid endangering the safety of a victim or witness, jeopardizing an ongoing investigation, disclosing classified or privileged information or unduly delaying the disposition of an offense. Although the victim's views will be considered, military officials have the responsibility to act in the best interests of the United States and may take any action deemed necessary in the interests of good order and discipline and in the prevention of service-discrediting conduct.

Victim's Right to Information

The Air Force in cooperation with the Department of Defense, will distribute and maintain five different types of DD Forms in order to enhance the rights of victims and witnesses. These forms provide invaluable information, to victims and witnesses of crimes.

1. **DD Form 2701. Initial Information for Victims and Witnesses of Crime.** Provides basic rights of a victim and lists phone numbers and points of contact for further information.
2. **DD Form 2702. Court-Martial Information for Victims and Witnesses of Crime.** Provides information on the many processes of a court-martial and lists points of contact for further questions and information.
3. **DD Form 2703. Post-Trial Information for Victims and Witnesses of Crime.** Lists location of confinement facility, clemency and parole consideration and points of contact for further queries.
4. **DD Form 2704. Victim/Witness Certification and Election Concerning Inmate** This form has to be filled out by a victim/witness of a crime and is maintained at the base legal office. Victim/witnesses are given the option to be informed of an inmate status. If they elect the right to receive information about changes in the status of the inmate, the Military Service Central Repository will be the agency to notify the V/W in the case of upcoming clemency and parole hearings or any other change in status. It is the responsibility of the V/W to notify the Central Repository if they move or if their telephone number changes in order to be notified of a change in inmate status.
5. **DD Form 2705. Victim/Witness Notification of Inmate Status.** . If the victim/witness elected to be notified in the case of a change in inmate status on the DD Form 2704, they will receive a DD Form 2705 from the confinement facility which outlines the upcoming changes to take place.

Assistance With Your Employer and Creditors

Upon request of a victim, the judge advocate will take reasonable steps to inform an employer of the reasons why a victim may be absent from work. In appropriate cases, a victim who is subject to serious financial strain as a direct result of a crime or cooperation in the investigation or prosecution of a crime will be assisted by the Eglin Legal Office in explaining this situation to creditors. If you need assistance in these areas, please notify the judge advocate assigned to the case.

Treatment, Support and Counseling

The Airman and Family Readiness Center (AFRC) on base maintains information on available treatment, support programs and counseling services. The AFRC serves as the liaison between victims and those programs. The AFRC director works with other agencies to identify victim's needs and determines appropriate forms of assistance available through the military and civilian community services. The AFRC provides information to victims on available medical, financial, legal and other social services and then assists victims in obtaining those services. The number for the AFRC at Eglin AFB is 882-9060.

Access to Reports and Documents

Victims have the right to obtain certain investigative and judicial reports under the Freedom of Information Act (FOIA). Any request for release of investigative reports or other documents must be processed in accordance with the Freedom of Information Act. Please contact the Freedom of Information Act Manager at 882-3315 if you have such a request.

Victim Reimbursement for Damages

Crimes often cause substantial financial losses for the victims. Perhaps you have had cash or valuable property stolen and not recovered, property damaged, medical expenses not covered by the government or a loss of income because you could not work. If any of these things have happened to you, check to see if your insurance will cover the loss. If it doesn't, there are several possible ways for you to recover all or part of your losses:

1. Compensation from State Funds

If you have been physically or emotionally injured or a member of your family has been killed as a result of a crime, you may be eligible for compensation by the state. Each state operates a crime victim compensation program to provide financial assistance to victims of violence or abuse. This assistance can be crucial in helping people through the recovery process. Two thirds of the states do not use tax dollars to pay these claims. Instead, the funds come from penalties, fines, court costs or other assessments against convicted criminals. Other states use general appropriations to fund their programs or some combination of appropriations and criminal fees. Through the federal Crime Victims Fund, the federal government provides annual awards to the states based on the amount of state dollars paid out to victims.

These programs pay for unreimbursed or out-of-pocket expenses of victims who suffer physical or emotional injuries as a result of crime, including sexual assault, physical abuse, drunk driving

and domestic violence. Family members of homicide victims are eligible for lost support and funeral costs. The programs do not cover expenses that are covered by other sources, including private or public health insurance, automobile insurance, sick leave, disability insurance and workman's compensation.

Although each state program varies, the following expenses are generally recoverable: medical expenses, mental health counseling directly related to the crime, actual loss of earnings due to disabling crime-related injuries, loss of support for dependents of deceased victims, funeral expenses, loss or damage to eyeglasses, hearing aids, or other medically necessary aids. Property loss, theft or damage is generally not a recoverable expense. The maximum award available varies by state and generally ranges from \$10,000 to \$25,000. Some types of benefits have separate limits.

In order to be eligible, you generally must report the crime promptly to law enforcement and cooperate in the investigation and prosecution of the crime. A conviction of the offender is not required. You must be innocent of any criminal wrongdoing yourself and your compensation may be denied or reduced if your own misconduct contributed to your injuries. You also must file a timely application with the compensation program and provide any information requested by the program.

To apply for victim compensation, you must submit an application to the appropriate state agency in the state where the crime occurred. The National Victims Information and Referral Service at (800) 394-2255 can provide the name of each state agency. If the crime occurred on Eglin AFB or in Florida, contact the Office of the Attorney General at (800) 226-6667. You should fill out the application completely and submit any required documentation (medical bills, repairs, etc.). The compensation program will review the application to see if you are eligible and that financial losses have occurred. The state office regarding any award that may be made will contact you.

2. Restitution from the Offender

When an offender returns stolen property or otherwise reimburses a victim for the losses he has caused, he has given "restitution" to the victim. The Manual for Courts-Martial does not impose restitution as part of an offender's sentence. However, in the hope of receiving a lighter sentence, an accused may agree to make restitution voluntarily. This can be done through a pretrial agreement, during the sentencing process or as part of post-trial mitigation. In addition, the convening authority may make restitution a condition of any parole or clemency.

If you want restitution, make sure the judge advocate is aware of your desire. Inform him or her of the crime's impact on you. This will give an accurate picture of what the restitution should involve in your case.

3. Transitional Compensation

When a military member is convicted by court-martial for abusing family members and approved sentence includes punitive discharge or dismissal; or basis for administrative discharge is abuse of family member, then the spouse, dependent children, or court appointed guardian may be eligible for transitional compensation. To find out more about this program including payments, duration, and other benefits, call the Staff Judge Advocate or the Victim/Witness Coordinator at 882-8038.

4. Processing a Claim Under Article 139 of the UCMJ

If your losses resulted from wrongful taking or willful misconduct by military members, Article 139 may provide a means of recovery. The judge advocate assigned to your case can investigate this possibility for you.

5. Filing a Civil Lawsuit

As a victim, you may try to recover your losses in a civil lawsuit against the accused. Such a private lawsuit is completely separate from the court-martial or other military justice proceeding. The problem with trying to get civil damages from the accused is that whatever money he once had may now be gone.

If your total losses are small, you may be able to file a claim in Small Claims Court where a lawyer is not needed. The Eglin Legal Office can provide you with an information packet on the procedures for filing such a claim.

INFORMATION FOR WITNESSES

Protection From Harassment

It is a federal offense to threaten, intimidate, harass, mislead or retaliate against a witness in a criminal proceeding or investigation. When appropriate, steps will be taken to protect you from intimidation or other threats. If anyone does threaten you or if you feel that you are being harassed because of your contribution to a case, immediately notify the judge advocate in charge of the case or the Air Force agency investigating the offense. Here at Eglin AFB, the appropriate phone numbers are:

Base Legal Office	882-8038
Security Police Investigations	882-2502
Office of Special Investigations	882-2152

Pre-trial Responsibilities of a Witness

Even though you are being asked for your cooperation in this case by the prosecution, witnesses do not "belong to" either side of a criminal case. It is proper for the defense lawyer to contact you about your testimony in this case. The Eglin Legal Office staff requests that you cooperate fully with both the prosecution and defense. In an interview with a representative of the prosecution or the defense, you should always do your very best to tell "the truth, the whole truth, and nothing but the truth."

If you give a statement to an investigator or lawyer for either side, you do not have to sign the statement. However, any statement that you make during an interview, even if not signed, may be used to try to challenge or discredit your testimony in court if it differs from any prior statements—whether written or oral. If you decide to sign the statement, be sure to read it over and correct any mistakes. You may insist on a copy of your statement if you wish.

The judge advocate in charge of the case will discuss various aspects of the case with you, both for your information and to prepare you for your testimony if necessary. If you have an interview with a lawyer or investigator for the defense, please inform the judge advocate about the interview and its results.

You may generally discuss the case with anyone you wish, unless instructed otherwise by a judge. However, it is not always a good idea to do so. For example, an accused may be under orders not to talk to you about the case as a condition on his liberty prior to trial and might be

placed in pretrial confinement if he or she does talk to you about the case. Since you are a potential witness, you are encouraged not to discuss the case with members of the press because the rights of the government and of the accused to a fair trial could be jeopardized by pretrial publicity. Do not ask other witnesses about their testimony in court. After your testimony in court, the military judge will instruct you not to discuss the case or your testimony with anyone other than the lawyers involved in the case until after the conclusion of the court-martial. All these safeguards are necessary to ensure a fair and impartial trial.

Witness Appearances in Court

There is often more than one kind of court hearing where you may be asked to testify. It is difficult to schedule hearings that are convenient for all parties involved. A hearing may require the presence of witnesses, law enforcement officers, the lawyers for the government and for the defense, the judge, investigating officer or magistrate and jury members, as well as the accused. Therefore, when a time and place is set for a hearing, please be there promptly. If you know in advance that you might have difficulty in making an appearance, let the judge advocate in charge of the case know so that he/she can try to adjust the schedule. If you have been sent a subpoena, federal law allows for serious penalties if you fail to obey that formal order to appear. Despite the efforts of everyone concerned, hearings are sometimes delayed to preserve the rights of the parties. The Eglin Legal Office will promptly notify you of any scheduling changes which affect your attendance. Please let the Legal Office know how to reach you.

Witness Reimbursement

If you are not a military member or federal government employee, you will receive a witness fee for each day that you are required to attend a court-martial, including your time spent while waiting to testify. Witnesses from out of town receive reimbursement for certain travel expenses in addition to their daily witness fee. At the conclusion of your testimony, you must complete a witness voucher, Standard Form 1175, to make a claim for your fees. Speak with the judge advocate in charge of your case about how to file your witness voucher.

If you are a military member or federal government employee, you receive your regular pay in spite of your absence from your job while testifying but you will not be able to collect a witness fee in addition to your regular pay.

Disposition of Evidence

Law enforcement officers sometimes must take and store personal property belonging to victims or witnesses for use as evidence in a court-martial. If your property is being held as evidence and you would like to regain your property before the court-martial or trial is over, contact the judge advocate in charge of the case. It may be possible to have your property released early, after a determination has been made about the evidentiary value of your property in the court-martial or trial.

In any case, your property which is held as evidence will be safeguarded and returned as quickly as possible. The prompt return of your property will always be sought by all parties involved in the justice system. If a delay in the return of your property is required, the judge advocate in charge of the case will explain to you the reasons for retaining your property and will provide an estimate of when your property will be returned to you.

Waiting Areas

At courts-martial and other proceedings, every attempt will be made to allow victims and witnesses to wait in an area of the Eglin Legal Office separate from the accused or other witnesses. Separate waiting areas are appropriate when necessary to avoid embarrassment, coercion or other emotional distress. Since this is not always practical, please let the judge advocate know if you would like a separate waiting area.

Assistance With Your Employer and Creditors

Upon request of a witness, the judge advocate will take reasonable steps to inform an employer of why a witness will be absent from work. In appropriate cases, a witness who is subject to serious financial strain as a direct result of a crime or cooperation in the investigation or prosecution of a crime will be assisted by the Eglin Legal Office in explaining this situation to creditors. If you need assistance in these areas, please notify the judge advocate assigned to the case.

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Help On the Day of Trial

As a witness, you may have questions about transportation, the location of the courtroom, food service, lodging, parking, childcare, availability of interpreters/translators, what to expect in court and what time to appear. The judge advocate assigned to the case will provide assistance in obtaining these services. You should feel free to ask the judge advocate for assistance on any of these matters.

CONCLUSION

Hopefully, this packet has answered many of your questions regarding your rights and role in the military justice system. You should understand that victims have certain rights and should be treated with dignity and respect. Witnesses have important responsibilities in this process and their full cooperation is essential if the system is going to operate fairly and effectively. Your contribution, in time and energy, is appreciated by everyone in the Eglin Legal Office and by the military commanders at Eglin Air Force Base. Again, if you have any questions or problems related to the case or need assistance, please contact the judge advocate assigned to the case in the Eglin Legal Office, Building 2, 501 West Van Matre, Eglin AFB, FL 32542, 882-4611 or DSN 872-8038.

EMERGENCY CARE, MEDICAL CARE, AND SOCIAL SERVICES

If you are a victim of or witness to a crime, there are many services available on base and in the local community. The following list includes some services, which may be available to assist you. Also attached is a list of other numbers, which may be helpful.

Medical Assistance

Eglin AFB Emergency Ambulance Service — 911

Central Appointments, Eglin Clinic — 883-8600 for Active Duty/Dependents/Retirees

Tricare Advisor — 883-8246

Financial Assistance and Restitution

Air Force Aid — 882-4489

American Red Cross — 883-4020

Eglin Claims Office — 882-4611

National Victims Information/Referral Service — (800) 394-2255

Florida Victims Compensation Fund — (800) 226-6667

Lawyer Referral Service — (800) 342-8011

Victim and Witness Protection

Security Police Desk — 882-2502

OSI — 882-2502

Eglin Legal Office — 882-4611

Florida Sheriff's Department — 651-7400

Victim and Witness Assistance

Chaplain — 882-2111

Family Services — 882-2893

Airman and Family Readiness Center — 882-9060

Family Advocacy Office — 883-8616

Shelter House (24 Hour) — 863-4777

Florida Sheriff's Department — 651-7400

Okaloosa/Walton Information and Referral Helpline — (800) 377-9111

United Way — (800) 844-8929

Bridgeway Crisis Line — 244-9191

Florida Abuse Hotline (800) 962-2873

Child help USA — (800) 4-A-CHILD

Victim Services Information and Referral Line — (800) 226-6667